



AUSTRALIAN CAPITAL TERRITORY

## **Domestic Violence (Amendment) Act (No. 2) 1997**

**No. 37 of 1997**

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### **An Act to amend the *Domestic Violence Act 1986***

*[Notified in ACT Gazette S185: 16 July 1997]*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

#### **Short title**

1. This Act may be cited as the *Domestic Violence (Amendment) Act (No. 2) 1997*.

#### **Commencement**

2. (1) Sections 1, 2 and 3 commence on the day on which this Act is notified in the *Gazette*.

(2) The remaining provisions commence on a day fixed by the Minister by notice in the *Gazette*.

(3) If a provision referred to in subsection (2) has not commenced before the end of the period of 6 months commencing on the day on which this Act is notified in the *Gazette*, that provision, by force of this subsection, commences on the first day after the end of that period.

#### **Principal Act**

3. In this Act, “Principal Act” means the *Domestic Violence Act 1986*.<sup>1</sup>

**Insertion**

4. After Part II of the Principal Act the following Parts are inserted:

**“PART III—THE DOMESTIC VIOLENCE PREVENTION  
COUNCIL**

**Interpretation**

“20. In this Part—

‘appointed member’ means a member appointed under subsection 23 (6);

‘Council’ means the Domestic Violence Prevention Council established by section 21;

‘member’ means a member of the Council and includes the Chairperson;

‘statutory office’ means an office established by an Act;

‘statutory office holder’ means the holder of a statutory office and includes a person who at any time occupies for the time being, or performs for the time being the duties of, the office.

**Establishment**

“21. There is hereby established a council to be known as the Domestic Violence Prevention Council.

**Objective and functions**

“22. (1) The objective of the Council is to reduce the incidence of domestic violence offences.

“(2) The functions of the Council are—

(a) to promote collaboration among government agencies and non-government organisations involved in—

(i) law enforcement; or

(ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence;

(b) to assist and encourage the agencies and organisations referred to in paragraph (a) to promote projects and programs aimed at enhancing the safety and security of victims of domestic violence offences, with particular regard to children;

- (c) to advise the Minister on any matter relating to domestic violence;
- (d) to inquire into and provide advice to the Minister on matters relating to domestic violence that have been referred to the Council by the Minister;
- (e) to establish and maintain links with and among government agencies and non-government organisations concerned with domestic violence;
- (f) to assist government agencies and non-government organisations to develop procedures for the collection, standardisation and sharing of statistical information relating to domestic violence offences;
- (g) to collect statistical and other information relating to domestic violence offences;
- (h) to prepare and submit to the Minister a plan for dealing with domestic violence in the community, including recommendations on—
  - (i) any changes in the law or its administration that may be necessary;
  - (ii) improving the effectiveness of the provision of assistance to victims of domestic violence offences;
  - (iii) the prevention of the occurrence of domestic violence offences; and
  - (iv) developing systems for monitoring the effectiveness of any programs recommended in the plan that are implemented;
- (i) to monitor developments within and outside Australia of legislation, policy and community views on domestic violence and the provision of health and welfare services to victims and perpetrators of domestic violence offences; and
- (j) to give directions to the Domestic Violence Project Coordinator.

### **Membership**

“23. (1) The Council consists of the Chairperson and 12 other members.

“(2) The Minister shall, by instrument, appoint a Chairperson of the Council.

“(3) Not less than 6 members shall be persons who, in the opinion of the Minister, are familiar with the views and interests of the community on matters relating to domestic violence and are capable of representing those views and interests, and shall include—

- (a) at least 1 person who is capable of representing the views and interests of persons of Aboriginal and Torres Strait Islands descent; and
- (b) at least 1 person who is capable of representing the views and interests of other persons of non-English speaking background.

“(4) The remaining members shall be—

- (a) the Domestic Violence Project Coordinator;
- (b) other statutory office holders who hold statutory offices specified by the Minister by instrument; or
- (c) public servants who—
  - (i) occupy an office the functions of which involve dealing with matters that are relevant to a function of the Council; and
  - (ii) in the opinion of the Minister, have such experience and expertise as would assist the Council in the discharge of its functions.

“(5) The Minister shall not specify a statutory office for the purposes of paragraph (4) (b) unless satisfied that the discharge of the functions of the office requires its holder to have such experience and expertise as would assist the Council in the discharge of its functions.

“(6) A person referred to in subsection (3) or paragraph (4) (c) shall be appointed by the Minister by instrument.

“(7) The performance of a function by the Council is not affected by reason only of there being a vacancy or vacancies in its membership.

### **Terms of appointment**

“24. (1) Subject to this Part—

- (a) the Chairperson holds office for such period not exceeding 2 years as is specified in the instrument of appointment;
- (b) any member who is a statutory office holder holds office as a member while he or she holds the relevant statutory office;

- (c) a member referred to in subsection 23 (3) holds office for such period not exceeding 2 years as is specified in the instrument of appointment; and
- (d) a member referred to in paragraph 23 (4) (c) holds office as a member while he or she occupies an office referred to in subparagraph 23 (4) (c) (i).

“(2) A member is eligible for reappointment.

### **Resignation**

“25. An appointed member may resign his or her office by notice in writing signed by the member and delivered to the Minister.

### **Termination of appointment**

“25A. The Minister shall terminate the appointment of an appointed member—

- (a) for misbehaviour;
- (b) for physical or mental incapacity;
- (c) if he or she becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of remuneration for the benefit of those creditors;
- (d) is absent, without the permission of the Chairperson, from—
  - (i) 3 consecutive meetings of the Council; or
  - (ii) 4 out of 6 consecutive meetings of the Council; or
- (e) is convicted, in Australia or elsewhere, of an offence punishable by imprisonment for 1 year or longer.

### **Meetings of Council**

“26. (1) The Chairperson shall convene a meeting of the Council—

- (a) whenever he or she deems it necessary for the effective discharge of the functions of the Council;
- (b) on receipt of a written request by the Minister;
- (c) on receipt of a written request signed by not less than 3 other members of the Council; or
- (d) whenever necessary in order to ensure that subsection (2) is complied with.

“(2) The Council shall hold a meeting at least once in any period of 3 months.

“(3) The Council shall hold a meeting in accordance with any resolution of the Council.

### **Procedure at meetings**

“26A. (1) The Chairperson shall preside at all meetings at which he or she is present.

“(2) If the Chairperson is not present at a meeting or part of a meeting, the members present shall elect 1 of their number to preside at the meeting or part.

“(3) At a meeting of the Council a quorum shall consist of the majority of members for the time being.

“(4) Questions arising at a meeting shall be decided by a majority of votes of members present and voting.

“(5) The Council shall keep written minutes of its proceedings.

“(6) Subject to this Act, the procedures of the Council shall be as the Council determines.”.

## **“PART IIIA—OFFICE OF DOMESTIC VIOLENCE PROJECT COORDINATOR**

### **Interpretation**

“26B. In this Part—

‘Coordinator’ means the Domestic Violence Project Coordinator appointed under section 26C.

### **Appointment**

“26C. (1) There shall be a Domestic Violence Project Coordinator.

“(2) The Coordinator shall be appointed by the Minister in writing.

### **Functions**

“26D. The Coordinator has the following functions in relation to domestic violence:

- (a) to monitor and promote compliance with the policies of the Territory and Commonwealth governments;

- (b) to assist government agencies and non-government organisations involved in—
  - (i) law enforcement; or
  - (ii) the provision of health, education, crisis or welfare services to victims or perpetrators of domestic violence or otherwise relating to the incidence or prevention of domestic violence;to provide services of the highest standard;
- (c) to assist and encourage the agencies and organisations referred to in paragraph (b) to provide appropriate educational programs;
- (d) to facilitate cooperation among the agencies and organisations referred to in paragraph (b);
- (e) to assist in the development and implementation of policies and programs as directed by the Council;
- (f) to carry out such other functions as the Domestic Violence Prevention Council directs.

### **Powers**

“26E. The Coordinator has power to do all things necessary or convenient to be done in connection with the performance of his or her functions.

### **Terms of office**

“26F. The Coordinator holds office, subject to this Part—

- (a) for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for reappointment; and
- (b) on such terms and conditions (if any) in relation to matters not provided for by this Act as are specified in the instrument of appointment.

### **Resignation**

“26G. The Coordinator may resign by giving a signed notice of resignation to the Minister.

### **Termination of appointment**

“26H. The Minister may terminate the appointment of the Coordinator—

- (a) for misbehaviour or physical or mental incapacity; or

- (b) in accordance with the instrument of appointment.

### **Acting Coordinator**

“26I. (1) The Minister may, in writing, appoint a person to act as the Coordinator—

- (a) during a vacancy in the office of the Coordinator, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the Coordinator is for any reason unable to perform the functions of the office.

“(2) A person appointed to act as the Coordinator during a vacancy in the office of Coordinator shall not so act continuously for more than 12 months.

“(3) Anything done by or in relation to a person purporting to act pursuant to an appointment under subsection (1) is not invalid on the ground that—

- (a) the appointment was ineffective or had ceased to have effect; or
- (b) the occasion to act had not arisen or had ceased.

### **Legal immunity**

“26J. (1) No action, suit or proceeding lies against a person who is or has been—

- (a) the Coordinator; or
- (b) a person acting under the direction or authority of the Coordinator;

in relation to an act done or omitted to be done in good faith in the performance, or purported performance, of a function of the Coordinator under or in relation to this Act or another law.

“(2) Subsection (1) does not affect any liability that the Territory would have, but for that subsection, in respect of the act or omission.”.



**NOTE**

**Principal Act**

1. Reprinted as at 30 November 1996. See also Act No. 74, 1996; No. 24, 1997.

*[Presentation speech made in Assembly on 8 May 1997]*

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